

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ALBERT CHRIS HESTERMAN, an
individual, and LORI TROCHIM, an
individual,

Plaintiffs,

vs.

RPM INTERNATIONAL, INC., a
Delaware Corporation, RPM WOOD
FINISHES GROUP, INC. a Nevada
Corporation, STEWART-MACDONALD,
a Delaware Corporation, CHARTPAK,
INC., a Delaware Corporation, NAKOMA
PRODUCTS, LLC, an Illinois
Corporation, SEAGRAVE COATINGS
CORPORATION, a Delaware
Corporation, H. BEHLEN & BRO. Inc.,
MOHAWK FINISHING PRODUCTS,
ZIPPO MANUFACTURING, a
Pennsylvania Corporation, SHELL
CHEMICAL LP, a Delaware Corporation,
SHELL OIL, a Delaware Corporation, 3M
COMPANY, a Delaware Corporation,
SATELLITE CITY, a California
Corporation, CAIG LABORATORIES,
INC, a California Corporation, M.L.
CAMPBELL, an Ontario, Canada
Corporation, THE SHERWIN
WILLIAMS COMPANY, an Ohio
Corporation,

Defendants.

No.

COMPLAINT FOR DAMAGES

JURY DEMAND PURSUANT TO
FED.R.CIV.P 38(b)

1 COME NOW PLAINTIFFS, by and through their counsel of record, Michael A. Maxwell
2 and Thomas J. Degan Jr. of Maxwell Graham, PS, and allege the following cause of action:
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4 I. PARTIES

5 1.1 Plaintiff Albert Chris Hesterman is a resident of Seattle, Washington.
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7 1.2 Plaintiff Lori Trochim is a resident of Seattle, Washington.

8 1.3 Defendant RPM International, Inc. is a Delaware corporation which regularly
9 conducts or has conducted business in the State of Washington.

10 1.4 Defendant RPM Wood Finishes Group, Inc., is a Nevada corporation which
11 regularly conducts or has conducted business in the State of Washington.

12 1.5 Defendant Stewart-MacDonald is a Delaware corporation which regularly conducts
13 or has conducted business in the State of Washington.

14 1.6 Defendant Chartpak, Inc., is a Delaware corporation which regularly conducts or
15 has conducted business in the State of Washington.

16 1.7 Defendant Nakoma Products, LLC, is an Illinois corporation which regularly
17 conducts or has conducted business in the State of Washington.

18 1.8 Defendant Seagrave Coatings Corporation is a Delaware corporation which
19 regularly conducts or has conducted business in the State of Washington.

20 1.9 Defendant H. Behlen & Bro. is a corporation which regularly conducts or has
21 conducted business in the State of Washington.

22 1.10 Defendant Mohawk Finishing Products is a corporation which regularly conducts
23 or has conducted business in the State of Washington.
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III. FACTS

3.1 Plaintiff Albert Chris Hesterman was employed as a guitar repair technician at The Trading Musician in Seattle, Washington, from June 1994-December 17, 2015.

3.2 During the course of Plaintiff Albert Chris Hesterman's employment at The Trading Musician Plaintiff Hesterman used products manufactured by Defendants which contained Benzene and/or other harmful solvents.

3.3 As the result of said exposure Defendant Albert Chris Hesterman developed acute lymphoblastic leukemia (ALL).

IV. CAUSE OF ACTION

4.1 NEGLIGENCE

4.1.1 Defendants are liable for manufacturing, selling, marketing, distributing, designing and/or placing in the stream of commerce products that were defective, hazardous and/or carcinogenic.

4.1.2 Defendants were aware or should have been aware of the dangers associated with exposure to the hazardous chemicals and substances which they manufactured, sold, marketed, distributed, designed, or placed in the stream of commerce to the end consumer.

4.1.3 Defendants failed to take adequate precautions to warn Plaintiff Albert Chris Hesterman of the dangers and harm to which Plaintiff was exposed while handling these products, and failed to adequately instruct Plaintiff in the use of reasonably safe and sufficient apparel and protective equipment to protect him from injury caused by exposure to said chemicals and substances.



1 4.1.4 Plaintiff Albert Chris Hesterman's acute lymphoblastic leukemia was proximately
2 caused by exposure to said chemicals and substances.

3 4.2 PRODUCTS LIABILITY RCW 7.72.030

4 4.2.1 As alleged more fully above, the products in question were not reasonably safe as
5 designed or manufactured, or were not reasonably safe because adequate warnings or instructions
6 were not provided.

7 4.2.2 Alternatively Defendants failed to exercise reasonable care in the manufacture and
8 design of the products.

9 4.2.3 Alternatively Defendants breached express and implied warranties regarding the
10 fitness and merchantability of the products.

11 4.2.4 As a proximate result of Defendants' wrongful actions, the Plaintiff suffered
12 injuries in an amount to be determined at trial, for which Defendants are liable under RCW
13 7.72.030.

14 4.3 PRODUCTS LIABILITY RCW 7.72.040

15 4.3.1 The above paragraphs are fully incorporated herein by reference.

16 4.3.2 The products were a trade name of the Defendant product sellers.

17 4.3.3 The Defendant product sellers are liable for the injuries to Plaintiff to the same
18 extent as a manufacturer under RCW 7.72.040.

19 4.4 DAMAGES

20 4.4.1 As the result of the acute lymphoblastic leukemia caused by exposure to said
21 chemicals and substances, Plaintiff Albert Chris Hesterman suffered pain, suffering, loss of
22 enjoyment of life and economic loss in the form of medical special damages and lost earnings.
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1 4.4.2 As the result of the acute lymphoblastic leukemia, Plaintiff Lori Trochim incurred
2 lost earnings and other pecuniary damages while caring for Plaintiff Albert Chris Hesterman.

3 V. JURY DEMAND PURSUANT TO FED.R.CIV.P. 38(b)

4 Plaintiff hereby requests that any and all of this aspects of this suit be tried before a jury
5 pursuant to Fed.R.Civ.P. 38(b), subject to the further order of this Court.
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7 VI. RELIEF REQUESTED

8 WHEREFORE, the Plaintiff prays as follows:

- 9 1. Judgment for money damages to be proven at time of trial;
- 10 2. Judgment for attorney's fees, costs, and disbursements for this suit, including
11 but not limited to the Plaintiff's attorney fees and costs;
- 12 3. Such other relief as the Court may deem just and proper.

13 Dated this 17th day of December, 2018
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15 MAXWELL GRAHAM, P.S.
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20 Michael A. Maxwell, WSBA# 21781
21 Thomas J. Degan Jr., WSBA # 31513
22 Attorneys for Plaintiffs
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